IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/11/2004

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THE HON'BLE MR.JUSTICE N.V.BALASUBRAMANIAN
AND
THE HON'BLE MRS.JUSTICE R.BANUMATHI

Writ Petition No.31376 of 2004

A.Thambidurai ... Petitioner

-vs-

1. Union of India,
rep. by its Home Secretary,
North Block, New Delhi.

2. State of Tamil Nadu,
rep. by its Home Secretary,
Fort St. George, Chennai-9.

3. Special Task Force,
rep. by Vijayakumar, I.P.S.,
Sathyamangalam Forest,
Dharmapuri.

4. Special Task Force of
State of Karnataka,
Secretariate of Bangalore,
Bangalore. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for the issue of Writ of Mandamus to direct the 1st and 2 nd respondents to divert the already announced Rs.22 crores award fund to the Special Task Force, Tamil Nadu, to the 12 forest village people after cancelling the award programme on 30.10.2004 at Nehru Stadium, Chennai.

!For Petitioner : No appearance

For Respondents : No appearance for R-1
: Mr.A.L.Somayaji,
Addl. Advocate General
for RR2 to 4

:O R D E R

(Order of the Court was made by R.BANUMATHI, J.)

This writ petition is filed for the issuance of Writ of Mandamus to direct the 1st and 2nd respondents to divert the already announced Rs.22 crores award fund to the Special Task Force, Tamil Nadu, to the 12 forest village people after cancelling the award programme on 30.1 0.2004 at Nehru Stadium, Chennai.

2. Even during the pendency of the writ petition, the petitioner has also filed an amendment petition in W.P.M.P.No.40266 of 2004 to amend the prayer in the writ petition as "to diver the already announced 22 crores award fund to the 12 forest village people after considering the award programme on 30.10.2004 at Nehru Stadium, Chennai.

3. When the matter was taken up for hearing today, there was no representation for the petitioner. However we have considered the averments in the petition. We have heard the learned Additional Advocate General appearing for respondents 2 to 4.

4. From the averments in the petition, we find that the petitioner has raised 14 queries, which are almost investigative in nature, which the Court cannot probe into nor any direction could be issued for probing into the same. The petitioner claims to be the State Secretary of Dalit Communist Party of India. The petitioner has not averred as to how he is a public spirited individual in espousing the cause of the tribal people, who are said to have been victimised by Veerappan. After referring to the several operations of the Special Task Force, the petitioner has stated that the prize amount is to be disbursed to the 12 surrounding village people, who have been of great assistance in nabbing the forest brigand Veerappan. The prayer of the petitioner is to divert Rs.22 crores for the upliftment of the 12 surrounding village people, instead of spending the amount to S.T.F. persons.

5. The learned Additional Advocate General appearing for respondents 2 to 4, opposing the admissibility of the petition, has submitted that the petitioner has not made out a case and that public interest litigation cannot be misused for making complaints like the case of this nature. Contending that the public interest litigation is intended only for rendering substantive justice for promotion of good faith, the learned Additional Advocate General has relied upon two decisions of the Supreme Court rendered in BALCO EMPLOYEES' UNION (REGD.) v. UNION OF INDIA [(2002) 2 SCC 333] and in B.SINGH (DR) v. UNION OF INDIA [(2004) 3 SCC 363].

6. The Supreme Court, in B.SINGH (DR) v. UNION OF INDIA [(2004) 3 SCC 363], has observed as follows:

"Today people rush to courts to file cases in profusion under this attractive name of public interest. Self-styled saviours who have no face or ground in

the midst of public at large, of late, try to use such litigations to keep themselves busy and their names in circulation, despite having really become defunct in actual public life and try to smear and smirch the solemnity of court proceedings. They must really inspire confidence in courts and among the public, failing which such litigation should be axed with a heavy hand and dire consequences."

Elaborating upon the public interest litigation, the Supreme Court, in BALCO EMPLOYEES' UNION's case (cited supra), has observed as follows:

"77. Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be a espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and colloborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. 'litigation in the interest of the public'.

78. While PIL initially was invoked mostly in cases connected with the relief to the people and the weaker sections of the society and in areas where there was violation of human rights under Article 21, but with the passage of time, petitions have been entertained in other spheres. Prof.S.B.Sathe has summarised the extent of the jurisdiction which has now been exercised in the following words:
'PIL may, therefore, be described as satisfying one or more of the following parameters. These are not exclusive but merely descriptive:
- Where the concerns underlying a petition are not individualist but at shared widely by a large number of people (bonded labour, undertrial prisoners, prison inmates).
- Where the affected persons belong to the disadvantaged sections of society (women, children, bonded labour, unorganised labour etc.)
- Where judicial law-making is necessary to avoid exploitation (inter-country adoption, the education of the children of the prostitutes).
- Where judicial intervention is necessary for the protection of the sanctity of democratic institutions (independence of the judiciary, existence of grievance redressal forums).
- Where administrative decisions related to development are harmful to the environment and jeopardize people's right to natural resources such as air or water.'

79. There is, in recent years, a feeling which is not without any foundation that public interest litigation is now tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive.

80. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. There had been, in recent times, increasingly instances of abuse of PIL. Therefore, there is a need to re-emphasize the parameters within which PIL can be resorted to by a petitioner and entertained by the court. This aspect has come up for consideration before this Court and all we need to do is to recapitulate and re-emphasize the same."

7. Following the principles laid down by the Supreme Court, we are of the view that the public interest litigation is not an universal panacea for all the complaints/grievance raised against every policy of the Government. It may be that the Government has fixed certain amount as award amount. It is the policy of the Government to determine as to how the amount is to be diverted or to be spent for the Special Task Force.

8. Public interest litigation cannot be misused to investigate upon the 14 queries raised in the affidavit nor can there be any direction to divert the amount to the 12 surrounding village people as contended by the petitioner. The petitioner cannot claim that the 12 surrounding forest villages must be provided with 12 Solar Power Light Sheds costing Rs.12 Crores. There may be differences of views and opinions regarding the policy/views taken by the Government. But, no complaint or grievance could be expressed in the Court in the form of public interest litigation for each and every activity of the Government. Neither the Court nor a petition in the form of public interest litigation is the appropriate forum to sort out all the differences regarding the policy adopted by the Government.

9. There is no gain saying that the forest brigand Veerappan had been a menace to the Government and Society and posing serious challenge to the Special Task Force. The learned Additional Advocate General has stated that the killing of Veerappan has brought considerable relief to the Government in operation of Special Task Force, which contention has some force. By a reading of the averments in Para (5) of the affidavit, we find that Veerappan is projected as Guardian of the Forests and that his death would be dangerous to the protection of the Forest and other monuments. Further in the same para, the petitioner has espoused the cause of Veerappan's wife and children. In addition to the main prayer, the petitioner has also sought for the prayer to direct the second respondent to adopt the Veerappan's Daughters and wife with the prize money or Catch of Veerappan money Rs.5 + Crores starting from his 16th day Ceremony. Such averments in Para (5) and other averments in the affidavit raises doubts on the bonafide of the petitioner in espousing the cause of 12 forest Village People.

10. As held by the Supreme Court, the averments in the petition do not inspire the confidence of this Court and the litigation is to be axed even at the stage of admission. Public interest litigation is essentially meant to protect the basic human rights of the weak and the

disadvantaged and was a procedure, which was innovated by the Supreme Court, where really a public-spirited person files a petition in effect to get the relief on behalf of the weaker sections of the society. In the instant case, the petitioner does not appear to have satisfied the parameters laid down by the Supreme Court in BALCO's case, cited supra.

11. For the reasons stated above, we dismiss the writ petition with costs of Rs.1,000/-.

Index: Yes
Internet: Yes

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To

1. The Home Secretary, Union of India,
North Block, New Delhi.

2. The Home Secretary, State of Tamil Nadu,
Fort St. George, Chennai-9.

3. Special Task Force,
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